

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
MARC SOBEL D/B/A)	
AIRWAVE COMMUNICATIONS)	
)	FCC File No. 93F600
Request for Finder's Preference)	
Against Specialized Mobile Radio System -)	
Conventional Station WNYQ465 At)	
Oat Mountain, California, Licensed to)	
Lance Hardy Advertising)	

To: Chief, Private Radio Bureau

**SUPPLEMENT TO
OPPOSITION TO PETITION FOR RECONSIDERATION**

Marc Sobel d/b/a Airwave Communications (Sobel), by his attorneys, hereby files his Supplement to Opposition to the Petition for Reconsideration filed in the above captioned matter by Gerard Pick. In support of his position, Sobel shows the following.

Earlier in the above captioned matter, Sobel had demonstrated that Harold Pick had lied about the date on which station WNYQ465 was constructed or placed in operation. Now, documentary evidence has come to light which demonstrates further that Harold Pick lied to the Commission, and that Gerard Pick not only lied, but also presented a falsified document to the Commission.

Attached to the petition for reconsideration filed by Gerard Pick in the above captioned matter was a purported invoice from D.W. Thomas Companies, Inc. (Thomas). The invoice

was attached as Exhibit 3 to Gerard Pick's petition. Sobel's friend, James A. Kay, Jr. (Kay), is engaged in state court litigation against Harold and Gerard Pick. By means of discovery in that litigation, Kay has obtained from Thomas true copies of all documents which Thomas had rendered to Computer Consultants and Systems, a name under which Gerard Pick is registered as doing business. Copies of those invoices are attached as Exhibit I hereto. Comparison of the documents which Thomas supplied to Kay with the document presented at Gerard Pick's Exhibit 3 demonstrate beyond reasonable doubt that Gerard Pick uttered a falsified document before the Commission in support of his petition for reconsideration.

Gerard Pick uttered before the Commission an invoice which clearly had been counterfeited by combining the top of a Thomas invoice dated January 1, 1993, with the bottom of a Thomas invoice which had actually been dated by Thomas on February 10, 1993. The true invoice for crystals cut to operate on 809/854.0875 shows that the order for those crystals had not even been entered with Thomas until February 3, 1993, which was two days after the terminal date for placing station WNYQ465 in operation. For the Commission's convenience, a copy of Gerard Pick's faked invoice is attached as Exhibit II hereto.

Exhibit I hereto includes a Thomas Sales Order dated February 5, 1993, stating that someone would call for the crystals which had been ordered. The Thomas Sales Order shows that Harold Pick called for crystals on February 9, 1993, and signed the Sales Order at that time.

In his statement filed with the Commission in the above captioned matter on June 23, 1993, Harold Pick stated under penalty of perjury that station "WNYQ465 was constructed in a timely manner and complies with Part 90 Rules 90.633(d)." Harold Pick's signing for the crystals necessary to operate station WNYQ465 on February 9, 1993, proves beyond any reasonable doubt that Harold Pick blatantly lied to the Commission when he stated that station WNYQ465 had been constructed in a timely manner. In view of this further evidence of Harold Pick's mendacity, the Commission has no reasonable alternative but to refer to the United States Department of Justice the matter of Harold Pick's lying to the Commission under penalty of perjury. The Commission also has no reasonable alternative to designating for hearing the question of whether Harold Pick and Gerard Pick's are qualified to be Commission licensees.

Sobel has demonstrated that Gerard Pick lied to the Commission and uttered a false document before the Commission. Sobel has further demonstrated that Harold Pick lied to the Commission under penalty of perjury. This matter began more than one year ago. Sobel deserves certainty of the award of the Finder's Preference to him. Gerard Pick and Harold Pick deserve the retribution which the law provides for perjurers and utterers of false documents. Nothing more remains but for Commission to act on Gerard Pick's petition for reconsideration and refer the matter to the Justice Department for its further action. Accordingly, Sobel respectfully requests immediate action by the Commission.

Conclusion

For all the foregoing reasons, Sobel respectfully requests that the Commission immediately dismiss or deny Gerard Pick's petition for reconsideration in the above captioned matter and that it take such other actions as the ends of justice appear to warrant.

Respectfully submitted,
MARC SOBEL D/B/A
AIRWAVE COMMUNICATIONS

By


Dennis C. Brown

Brown and Schwaninger
1835 K Street, N.W.
Suite 650
Washington, D.C. 20006
202/223-8837

Dated: October 20, 1994

10-10-10 ()

EXHIBIT I

FREQUENCY MANAGEMENT DIVISION

The D.W. Thomas Companies, Inc.
15902 BOLSA CHICA STREET
HUNTINGTON BEACH, CA 92649
(714) 892-3234

INVOICE

PAGE 1 OF 1

DATE	INVOICE
02/04/91	5248

Please make checks payable to
THE D.W. THOMAS COMPANIES, INC.

ACCOUNT NO.	ITEM	YOUR ORDER NUMBER	CONTRACT REFERENCE	SALES DIVISION	ENTRY DATE	YOUR ORDER NO.	SHIPPED BY	TERMS
2115000	12			FREQUENCY	00/04/91	46358	WELLS CALL	NET 30

SOLD TO

COMPUTER CONSULTANTS & SYSTEMS
P.O. BOX 3032

SANTA MONICA CA 90403

SHIP TO

SAME
COMPUTER CONSULTANTS & SYSTEMS
350 MESA RD.

SANTA MONICA CA 90402

QUANTITY	ITEM NUMBER	DESCRIPTION	UNIT PRICE	AMOUNT
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FREQUENCY MANAGEMENT DIVISION

The D.W. Thomas Companies, Inc.
15302 BOLSA CHICA STREET
HUNTINGTON BEACH, CA 92649
(714) 892-3234

INVOICE

PAGE 1 OF 1

DATE	INVOICE
01/13/93	45533

Please make checks payable to
THE D.W. THOMAS COMPANIES, INC.

ACCOUNT NO.	TERM.	YOUR ORDER NUMBER	CONTRACT REFERENCE	SALES DIVISION	ENTRY DATE	OUR ORDER NO.	SHIPPED VIA	TERMS
2175000	14	071		FREQUENCY	01/13/93	45533	UPS BROWN	NET 30

SOLD TO

COMPUTER CONSULTANTS & SYSTEMS
P.O. BOX 3032

SANTA MONICA CA 90403

SHIP TO

COMPUTER CONSULTANTS & SYSTEMS
350 MESA RD.

SANTA MONICA CA 90402

QUANTITY			ITEM NUMBER	DESCRIPTION	UNIT PRICE	AMOUNT
ORDERED	SHIPPED	BACK ORDERED				
3	3	0	TX 534-253-1	MOT KXN6330P10/50 154.5700	12.75	38.25
3	3	0	RX 534-253-2	MOT KXN6331P10/50 154.5700	12.75	38.25
6 EXP. CRYSTALS @ 4.00						
ACCOUNTING COPY		AMOUNT TOTAL	SALES TAX	EXPEDITE & HANDLING	FREIGHT CHARGE	INSURANCE CHARGE
		76.50		24.00	2.08	0.23
						INVOICE TOTAL
						102.81

AGENCY MANAGEMENT DIVISION
 7. Thomas Companies, Inc.
 701 S. CHICA STREET
 LONGTON BEACH, CA 92649
 892-3234 1 (800) 800-9825

SALES ORDER
 PAGE 1 OF 1

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DATE	01/14/93	NUMBER	45533
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LD TO
 COMPUTER CONSULTANTS & SYSTEMS
 P.O. BOX 3032

SHIP TO
 COMPUTER CONSULTANTS & SYSTEMS
 350 MESA RD.

SANTA MONICA CA 90403

SANTA MONICA CA 90402

DATE REC'D	01/13/93	ACCOUNT NO.	2175000	SHIP TO	01	TEAR	14	ENTERED BY	MG	SALES DIVISION	FREQ MGMT	TERMS F.O.B. PLANT	00 NET 30	BACK ORDER FROM	INVOICE NO.	DATE	CONTRACT REF.	BOX NUMBERS
SCHED. SHIP DATE	01/20/93	CUSTOMER ORDER NO.	071	DATE SHIPPED	1-22-93	SHIP VIA	B	SHIP	UPS BROWN	SHIPPER NUMBER								

LINE NO.	QTY ORDERED	QTY B.O.	ITEM NUMBER	DESCRIPTION	QTY	UNIT PRICE	AMOUNT
1	3		TX 534-253-1	MOT KXN6330P10/50 154-5700	3		38
2	3		RX 534-253-2	MOT KXN6331P10/50 154-5700	3		38

5 DAY EXPEDITE

SERIAL NUMBERS								SUB TOTAL	76
LINE NO.	NUMBER	LINE NO.	NUMBER	LINE NO.	NUMBER	LINE NO.	NUMBER		
								SALES TAX	24/01
								EXPEDITE HANDLING	
								FREIGHT	2
								INSTALLATION	0
								INSURANCE	0
								COP	102.81
								TOTAL	176.81

01/22/93

OR 658-802 PKG CHG \$ 2.00

PKG ID # 1003191 HT 1

GROUND

REF # 45533

NO. OF BO

ACCOUNTING COPY

SHIP BY

CREDIT APPROVED BY

DATE

AGENCY MANAGEMENT DIVISION
W. Thomas Companies, Inc.
BOLSA CHICA STREET
PACIFIC BEACH, CA 92649
909-323-3234 1 (800) 800-9825

SALES ORDER

PAGE 1 OF 1

02/05/93 46358

OLD TO

COMPUTER CONSULTANTS & SYSTEMS
P.O. BOX 3032

SHIP TO

TO
COMPUTER CONSULTANTS & SYSTEMS
350 MESA RD.

SANTA MONICA CA 90403

SANTA MONICA CA 90402

DATE REC'D 02/04/93	ACCOUNT NO. 2175000	QUANTITY 01	TERMS 14	ENTERED BY KH	SALES DIVISION FREQ	TERMS F.O.B. PLANT 00, NET 30	BACK ORDER FROM INVOICE NO. DATE	CONTRACT REF.	BOX NUMBER
SCHED. SHIP DATE 02/09/93	CUSTOMER ORDER NO.	DATE SHIPPED 02/12/93		SHIP VIA AIRWILDCALL		SHIPPER NUMBER		COMMENTS	

LINE NO.	QTY ORDERED	QTY B.O.	ITEM NUMBER	DESCRIPTION	UNIT PRICE	TOTAL
1	1	1	TX 366-900	G E PL19A136999G1854		
2	1	1	TX 366-900	G E PL19A136999G1809		
				IF HAROLD CANNOT BE CONTACTED		
				SHIP ORDER OUT		

SERIAL NUMBERS						SUBTOTAL	
LINE NO.	NUMBER	LINE NO.	NUMBER	LINE NO.	NUMBER	SALES TAX	
						EXPEDITE HANDLING	\$30.00
						FREIGHT	
						INSTALLATION	
						INSURANCE	
						COPY	
						TOTAL	\$55.00

NO. OF BOXES 75	TOTAL WT. 511 LBS
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ACCOUNTING COPY

SNP BY

CREDIT APPROVED

DATE _____

EXHIBIT II

EXHIBIT II

FREQUENCY MANAGEMENT DIVISION

The D.W. Thomas Companies, Inc.
16302 BOLSA CHICA STREET
HUNTINGTON BEACH, CA 92649
(714) 592-3734

INVOICE

PAGE 1 OF 1

Please make checks payable to
THE D.W. THOMAS COMPANIES, INC.

DATE	INVOICE
01/26/93	16284

ACCOUNT NO.	TERM.	YOUR ORDER NUMBER	CONTRACT REFERENCE	SALES DIVISION	ENTRY DATE	OUR ORDER NO.	SHIPPED VIA	TERMS
2175000	14	071		FREQUENCY	01/13/93	45533	UPS BROWN	NET 30

SOLD TO

SHIP TO

COMPUTER CONSULTANTS & SYSTEMS
P.O. BOX 3032

COMPUTER CONSULTANTS & SYSTEMS
350 MESA RD.

SANTA MONICA CA 90403

SANTA MONICA CA 90402

QUANTITY			ITEM NUMBER	DESCRIPTION	UNIT PRICE	AMOUNT		
ORDERED	SHIPPED	BACK ORDERED						
		0	TX 366-900	O E PL19A13699901-184-0875	12.75	12.		
		0	RX 366-900	O E PL19A13699901-184-0875	12.75	12.		
			2 EXP. CRYSTALS @ 15.00					
ORIGINAL		AMOUNT TOTAL	SALES TAX	EXPEDITE & HANDLING	FREIGHT CHARGE	INSURANCE CHARGE	G.O.D. CHARGE	INVOICE TOTAL
		25.50		10.00				55.

AFFIDAVIT

I declare under penalty of perjury under the laws of the United States that the foregoing
Supplement to Opposition to Petition for Reconsideration is true and correct.

Executed on 10-19, 1994.

M. B. B. B.

CERTIFICATE OF SERVICE

I hereby certify that on this twentieth day of October, 1994, I served a copy of the foregoing Supplement to Opposition to Petition for Reconsideration on the following person by placing a copy in the United States Mail, first-class postage prepaid:

Gerard Pick
Lance Hardy Best Advertising
P.O. Box 3032
Santa Monica, California 90408

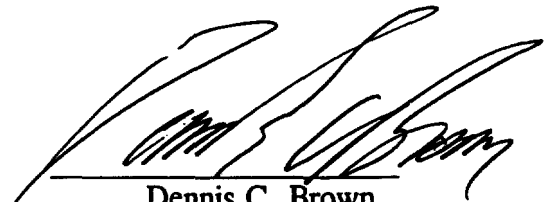

Dennis C. Brown

EXHIBIT HP-4

Federal Communications Commission

1270 Fairfield Road
Gettysburg, PA 17325-7245

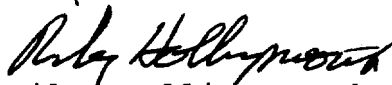
January 10, 1995

Harold Pick
350 Mesa Road
Santa Monica, CA 90408

Dear Mr. Pick:

Enclosed is a statement based on our interview with you in October concerning the James Kay matter. Please review it, make and initial any additions or corrections you feel are necessary and sign before a Notary Public. We would appreciate it if you could mail it back to us as soon as possible in the enclosed envelope.

Thanks,



Riley Hollingsworth
Deputy Associate Bureau Chief
Office of Operations - Gettysburg
Wireless Telecommunications Bureau

EXHIBIT HP-5

**Statement of Harold Pick to the
Federal Communications Commission**

I, Harold Pick, make the following statement under oath in connection with an official proceeding before the Federal Communications Commission.

My mother, Ann Pick, is, since the cartoid operations my father, Gerard Pick, underwent. ~~My father, Gerard Pick, and I are co-owners of a two-way radio sales and service business. We got into the repeater~~ two years ago, the owner of a two-way I naturally assist my mother as I used to assist my father.

business in 1988 or 1989 with a UHF repeater. I met James Kay at some later time and he was reasonably friendly towards me at first. However, I ran into problems with Mr. Kay sometime in 1988 when we met at a Denny's Restaurant on Sherman Way in ~~Reseda~~ Reseda.

At the time I was renting space on Oat Mountain from Kay, who had Buddy Sales at the time, and I was meeting with him to explore how I could expand my business and ask him to help me to get a channel of my own. At this meeting, Mr. Kay warned me never to interfere with his "empire." Mr. Kay told me that I could do anything I wanted on UHF, but to stay away from 470-512 MHz or 800 MHz, because those channels were his. He told me that if I did, he would fight me in anyway he could.

Nevertheless, I decided to file applications at 470-512 MHz, 500 MHz, and one with NABER at 800 MHz. All three came under "major attack" from Kay--a paper avalanche of petitions to dismiss, petitions to deny, and the whole gamut of oppositions. Mr. Kay made lots of unfounded statements in the pleadings and claimed I was unfit, and since the FCC had to consider all of these charges, my applications were delayed. ~~Even though I~~ and even more delayed *my Kay's inter he* but with my father's (and later my mother's) help didn't have an attorney, I responded to everything that Mr. Kay and so

filed and eventually I was licensed in all 3 frequencies I had applied for. I was granted ten units at 470 MHz, call sign WIK 837, but the FCC later set this aside because Kay convinced the FCC that only two units were available. The license was granted in March 1991, but returned to NABER after being set aside.

At that point I was becoming frustrated, so I decided to make peace with Mr. Kay. I contacted Ray Lucas of ProCom in Ventura ^{County} ~~City~~ and asked him to set up a meeting with Mr. Kay. We all met in 1992 at a Coco's Restaurant at Route 405 & Roscoe across from the Anheiser Busch Brewery in Van Nuys. Mr. Kay was doing business then as Southland Communications, located only a half-mile away.

At the meeting Mr. Kay directed me to "give up" the 470-512 MHz channel, WIK 837. Mr. Kay wanted it. He told me to tell NABER that I didn't want the 470-512 MHz channel, but instead wanted another channel that Mr. Kay showed me at the meeting. Mr. Kay told me that the 470-512 MHz channel was "his" (Kay's) channel. Mr. Kay also told me that I was not to have the 800 MHz channel. Since I was willing to do anything to make peace, I agreed to give up 470 MHz frequencies, but I asked Mr. Kay what I could have. Mr. Kay gave me two channels out of his head that I should go after, but one of the channels was already loaded and Marc Sobel already had the other. I hoped that Mr. Kay would leave me alone as a result of this meeting.

However, before the meeting I had filed an opposition to Kay's petition against me on WNYR 747, and Mr. Kay found out

about it after the meeting. He apparently decided I wasn't playing fair, and the paper avalanche started again. I called Mr. Kay and said why all the paperwork, I thought we had an agreement. Mr. Kay said that I shouldn't have filed anything, and as a result of this, he would crush me like a cockroach.

Then, one of Mr. Kay's customers, Lightning Taxi, called and threatened to kill me. I filed a Police report about the threat. Mr. Kay also called my mother, Anna, in 1992 and told her the following: "You tell your son to get off the 800 channel or I will make him. Tell him this is Mr. Kay." My mother hung up on him. My mother has been afraid for my life ever since!

Sometime soon after that, three of my repeaters were stolen off of Saddle Peak. I put the word out to as many people as ~~he~~ I could that my repeaters had been stolen, and Dan Magro, of Portable Clinic, a radio shop, called me and said he had bought 3 repeaters very cheaply and they appeared to be mine. I got my repeaters back and reimbursed Magro. Also, Mr. Kay intimidated one of our end users. The customer became terrified ~~of both of them~~ and cancelled his service.

In October 1992 I was licensed on frequency 852.6875. But the frequency was taken up by Hessman Security, WNNE 920, and I couldn't load customers on that frequency. I did research on the Hessman application, and found that it had Mr. Kay's phone number and showed Mr. Kay as the "preparer." I called another end-user, Perfection Airconditioning, and asked if they were still using their radios. The user said no, and sold the radios to us

and assigned the license to me, which allowed us to have loading capacity on the repeater. James Kay attacked the application, but the FCC eventually granted the assignment.

My father filed for another frequency, 854.0875 MHz, for Goodwill Industries. Goodwill was already on another channel on another repeater but was getting bad service and their license was expiring. They renewed and we added them to the "Lance Best" SMR. But we apparently let the renewal lapse, and Marc Sobel got it. Mr. Sobel was the primary user and we were the secondary user, and James Kay later made interference complaints against us although Sobel was interfering with us. Marc Sobel filed a complaint with the FCC Los Angeles Office saying that Goodwill was jamming the channel. But when I checked I found that someone else was using Goodwill's DPL code, so I changed the code and then the jamming stopped.

James Kay jammed one of our customers, Slingshot Messenger Service, and even sent them a copy of our bankruptcy filing and other negative things about us. The customer stayed with us, however, and the interference ended in May 1994.

Marc Sobel, but I believe it was really James Kay, filed a finders preference against the Lance Best station saying that it was not constructed on time on the Oat and Saddle Peaks. At this time, the FCC has said that the Saddle Peak should come down, but I am opposing that and the matter is still pending. The petition regarding Oat Mountain is also still pending.

I suspect other practices are used by James Kay as well.

Kay, in cooperation with several lawyers, specifically Brown and Schwanninger, intersperse any and all applications I have made to the FCC with constant petitions to the Commission not only forcing me into a constant battle with paper but also over-loading the FCC, all for the purpose of preventing me and others from being heard.

It is my considered opinion that Kay's operations against me are outrageously vicious attempt to prevent me from obtaining FCC licenses.

Prior to October 1992, the FCC licensed end-users. I believe that James Kay would license end users on his 800 MHz repeaters, but actually have them fill out applications for 470-512 MHz operation and that's where he would have them operate. One example of this is the Van Diest Brothers company. I also believe that James Kay "parks" a lot of licenses in employee names.

I have read the foregoing statement consisting of 5 pages. I have made any corrections and I have initialed each page at the top and the bottom. I have been permitted to add any information I believe is necessary, and by signing it I swear under penalty of perjury before a duly licensed notary public that this statement is true and accurate to the best of my knowledge and belief.

Signed by: Harold Puck Date: 1-18-95

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

State of California

County of California

On January 18, 1995 before me, Ernest S. Ignacio, Notary Public personally
Date Name, Title of Officer - i.e. "Jane Doe, Notary Public"

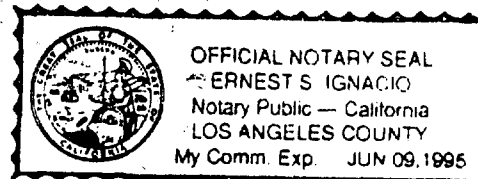
appeared Harold Pick
Name(s) of Signer(s)

☐ personally known to me OR ☒ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

Ernest S. Ignacio



(Seal)

(ATTENTION NOTARY: Although the information requested below is OPTIONAL, it could prevent fraudulent attachment of this certificate to another document.)

CAPACITY CLAIMED ☒ INDIVIDUAL
 BY SIGNER:

- ☐ CORPORATE OFFICER: _____
Title(s)
- ☐ PARTNERS: ☐ Limited
☐ General
- ☐ ATTORNEY-IN-FACT
- ☐ TRUSTEE(S)
- ☐ GUARDIAN/CONSERVATOR
- ☐ OTHER: _____

SIGNER IS REPRESENTING: _____
Name of Person(s), Entity(ies)

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW:

Title of the Document: Statement of Harold Pick to the Federal Communications Commission

Date of Document: 1-18-95 Signer(s) Other Than Name Above: none

Number of Pages: _____

EXHIBIT HP-6

COMPUTER CONSULTANTS & SYSTEMS

Mr. Terry Fishel
Chief, Land Mobile Branch -
Federal Communication Commission
1270 Fairfield Road
Gettysburg, PA 17326

29 July 1991

Dear Mr. Fishel -

On Saturday, 27 July 1991, at approximately 5 PM, two or more persons entered the building on Saddle Peak, owned by Meridian Communications [23501 Park Sorento, Calabasas, California 91302] in which our repeaters are housed, removed i.e. stole three of them and vandalized the others. At this moment we are off the air and unable to fulfill our obligations to our clients.

In view of the fact that we have been threatened with having our equipment destroyed by one Will Martin [933 S Greenwood Avenue, Montebello, California] and one Van Williams [KHM Communications, 1630 Ocean Park Blvd., Santa Monica, California 90405] (see enclosures) we believe that these two or either are responsible for the theft and vandalism, especially since the only equipment stolen and demolished was ours. However we have no concrete proof.

We have reported the matter to the Sheriff in Malibu and to the FBI. We do not know yet what the Sheriff can do; we were told at the FBI that any action need be taken by the FCC or the FCC need make a request for action to/by the FBI. We believe the matter to be of importance to the FCC and the FBI because the stolen and vandalized equipment is used under Federal License granted us and because mis-use of the equipment can be dangerous.

The value of the equipment stolen and vandalized is about \$ 10,000.00. Any help you can extend us would be much appreciated.

Sincerely -

/ac

cc Mr. Jim Zulick/FCC-Cerritos
FBI - West Los Angeles Office
Detective Benedict, L.A. County Sheriff's Office, Malibu, CA
The Messrs. Reichler, Meridian Communications

COMMUNICATIONS CONSULTANTS & SYSTEMS

P.O. Box 3032 Santa Monica, California 90408
Phone: 213/454-9561 & 451-5550 FAX: 454-9561

EXHIBIT HP-7